

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/855,061	05/13/97	AUGUSTINE	S 1342-196

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OM12/0214

EXAMINER

GRAHAM, M

ART UNIT	PAPER NUMBER
3711	28

DATE MAILED:

02/14/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/855,061</b>	Applicant(s) <b>Augustine et al.</b>
	Examiner <b>Mark S. Graham</b>	Group Art Unit <b>3711</b>

Responsive to communication(s) filed on Jan 25, 2000.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 20-39 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 20-23 and 25-39 is/are rejected.

Claim(s) 24 is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3304

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 21, 22, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Roehr for the reasons set forth in the previous action.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 25, 26, 27, 28, 29, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roehr for the reasons set forth in the previous action.

Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine '188 in view of Roehr for the reasons set forth in the previous action and above.

Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roehr in view of Hardy for the reasons set forth in the previous action rejection based on Roehr in view of Hardy and above.

In response to applicant's further arguments the motivation to combine is to provide a head opening. Hardy suggests this motivation. Whether the blanket temperature be controlled by

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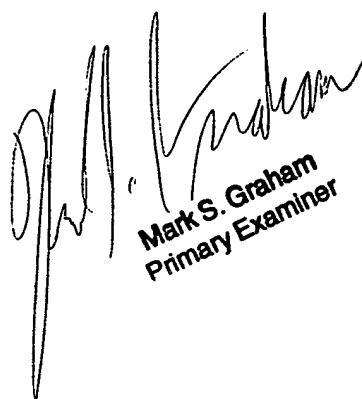
water or air such an advantage in a blanket would have been readily apparent to the ordinarily skilled artisan considering the art as a whole. Regarding applicant's final argument the test is not that one reference be bodily incorporated into another but what the references would have suggested to the ordinarily skilled artisan who is presumed to have at least a modicum of ability to engineer the added feature.

Claims 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine in view of Roehr and Hardy for the reasons set forth in the above applications of Roehr and Hardy.

Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number (703) 308-1355.

MSG  
February 3, 2000



Mark S. Graham  
Primary Examiner